

III. REMARKS

A. STATUS OF THE CLAIMS

Claims 1-6, 8, 9, and 11-34 were pending in this application. Claims 1-6, 8, 9 and 11-34 were rejected. Claims 1, 13, and 16 have been amended. Claims 35-40 have been added.

Applicants acknowledge that the Office Action now contends that claims 23 and 24 are no longer allowable, but are now subject to a new Double Patenting rejection.

The Office Action had previously objected to claims 7 and 10 as being dependent upon a rejected base claim 1, but would have been allowable if rewritten in independent form including all of the limitations of the base claim 1 and any intervening claims. The Office Action now contends that this allegation was in error and that claims 7 and 10 would not be allowable if rewritten in independent form including all of the limitations of the base claim 1 and any intervening claims.

Claim 1 has been amended in part such that the collar is positioned directly on the perimeter of the first sample processing device; and the second seal, located between the first sample processing device and the collar, is positioned directly on the perimeter of the first sample processing device. Support for this amendment is found in the specification at least at page 13, lines 2-6, and in Figures 1-3.

Claim 13 has been amended by deleting the phrase “a gasket” and inserting the phrase the flange, such that the flange now contacts a slot formed in the collar, the addition of a sealing gasket element between the sample processing device and the collar, wherein the sample processing device is positioned in a sealing engagement with said collar. Support for this amendment can be found at least in paras [0031] and [0043] of the specification as originally filed, and in original claim 7.

New claim 35 corresponds to originally presented claim 10.

New claim 36 corresponds to originally presented claim 11.

New claim 37 corresponds to originally presented claim 12.

New claim 38 corresponds to originally presented claim 2.

New claim 39 corresponds to originally presented claim 3.

New claim 40 corresponds to originally presented claim 4.

Applicants assert that *no new matter* has been added to the claims by these amendments.

Accordingly, upon the entry of the present amendment and response, claims 1-6, 8, 9 and 11 to 40 will be pending.

B. NON-STATUTORY OBVIOUSNESS TYPE DOUBLE PATENTING REJECTION

Claims 1-6, 8, 9 and 11-34 have been provisionally rejected under nonstatutory obviousness-type double patenting rejection as allegedly being unpatentable over claims 1-6, 8-16 and 32-48 of copending U.S. Application Serial No. 10/780,463.

While in no way admitting that the present claims are obvious over claims 1-6, 8-16 and 32-48 of U.S. Application Serial No. 10/780,463, Applicants respectfully submit that upon allowance of the claims in the aforementioned patent applications, Applicants will consider submitting a terminal disclaimer in compliance with 37 C.F.R. §1.321, if appropriate, which will obviate these rejections.

C. 35 U.S.C. §102 REJECTION

Claims 1-3, 5, 6, 8, 9, and 11-21 ands 25-27 are rejected as allegedly anticipated by U.S. Pat. No. 6,159,368 to *Moring et al.* (hereinafter “*Moring*”). Applicants respectfully traverse.

The Anticipation Standard

The standard for anticipation under 35 U.S.C. § 102 requires that each and every element as set forth in the claim be found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). “The identical invention must be shown in as complete detail as is contained in the claims.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Amended independent claim 1 recites in part: a collar; a base; a first sample processing device; a collection plate or target tray, stacked below said first sample processing device to form

an integral stacked unit, said stacked unit positioned between said collar and said base, a first seal between said collar and said base; a second seal between said first sample processing device and said collar on the perimeter of said first sample processing device, wherein said second seal is a gasket.

Amended claim 13 recites in part: a sealing gasket positioned between the sample processing device and the collar, wherein the sample processing device is positioned in a sealing engagement with the collar and the flange, such that the flange now contacts a slot formed in the collar, the addition of a sealing gasket element between the sample processing device and the collar, and wherein the sample processing device is positioned in a sealing engagement with said collar.

Amended independent claim 16 recites in part: a first seal between said collar and said base, and a second seal between said first sample processing device and said collar, wherein said second seal is a gasket.

Amended independent claim 25 recites in part: a second seal located between said first sample processing device and the top surface of said collar, wherein said second seal is a gasket.

Applicants respectfully contend that *Moring* fails to disclose each and every element of the claims, and as such *Moring* fails to anticipate the invention as claimed. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

D. 35 U.S.C. §103 REJECTION

Claims 4 and 22 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,159,368 *Moring et al.* (hereinafter, “*Moring*”) in view of U.S. Patent No. 5,498,545 to *Vestal* (hereinafter, “*Vestal*”). Applicants respectfully traverse the rejections.

Claims 4 and 22 remain rejected as allegedly obvious in light of *Moring* in view of *Vestal*. The Office Action asserts that *Moring* teaches all the elements of the claims, but admits that none of these references teach a MALDI device as the second device. According to the Office, *Vestal* teaches a mass spectrometer system for analyzing multiple samples. The Office Action contends that *Vestal* discloses a system including a sample plate for holding samples on pins in wells of a plate. The Office Action concludes it would have been obvious to combine

Vestal with the device of *Moring*. The Office Action further states that one would use the plate of *Vestal* as the collection plate in order to load the collection plate for MALDI analysis of the samples. Applicants respectfully traverse the rejection.

THE *PRIMA FACIE* CASE REQUIREMENT

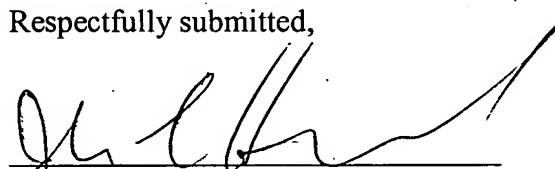
The Patent and Trademark Office bears the burden of initially establishing a *prima facie* case of obviousness. The standard required to establish a *prima facie* case of obviousness includes: "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one or ordinary skill in the art, to modify the reference or to combine what the reference teaches. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations." (emphasis added) Additionally, the motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and must suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Col, Inc.*, 229 U.S.P.Q. 182, 187 n.5 (Fed. Cir. 1986); MPEP §2141.

Applicants respectfully contend that the Office Action has not met its burden in establishing a *prima facie* case of obviousness because the references as combined fail to teach or suggest all the claim limitations. As discussed *supra*, *Moring* fails to teach and/or suggest all of the claim limitations. Applicants contend that *Vestal* does nothing to cure the defects of *Moring*. Accordingly, the claims are not *prima facie* obvious, and Applicants respectfully request this rejection be reconsidered and withdrawn.

IV. CONCLUSION

It is now believed that each of the above-referenced rejections have been obviated. Applicants respectfully request the reconsideration and withdrawal of the rejections, and the timely allowance of the pending claims. Applicants believe that the above response is a complete response to the present office action. If however the Examiner believes that some requirement has been missed or not completely answered, the Examiner is invited to contact Applicants' attorney at the number below. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted,

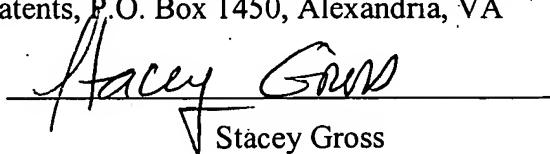


John Dana Hubbard
Attorney for Applicant
Reg. No. 30,465

June 11, 2009
Millipore Corporation
290 Concord Road
Billerica, Massachusetts 01821
Tel.: (978) 715-1265
Fax: (978) 715-1382

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The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 11, 2009.



Stacey Gross